

HOUSE BILL 2948

By Lynn

AN ACT to amend Tennessee Code Annotated, Title 3,
Chapter 2 and Title 4, Chapter 5, relative to
regulation of businesses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 3, Chapter 2, Part 1, is amended by
adding a new section thereto, as follows:

Section 3-2-113.

(a) All proposals introduced in the general assembly to regulate a
business profession or occupation shall be reviewed according to the criteria
established in this section.

(b) A business profession or occupation should be regulated by the state
only when:

(1) Unregulated practice presents a clear risk to the health, safety,
or welfare of the public, and the potential for the harm is supported by
evidence and is neither remote nor speculative;

(2) The actual or anticipated public benefit of the regulation clearly
exceeds the costs imposed on consumers, businesses, and individuals;

(3) The benefit from the assurance of initial and continuing
professional ability serve to avoid a clear risk to the health, safety or
welfare of the public; and

(4) The public cannot be effectively protected by other means in a
less restrictive manner, including simple registration, private certification,
or other non-prohibitive means.

(c) The fiscal review committee shall conduct an analysis to examine data from multiple sources, looking for evidence of actual harm befalling the public related to the industry in question. This includes but is not limited to industry association data, federal, state or local government data, business reports, complaints to the respective state law enforcement or consumer affairs divisions, Better Business Bureau, and data from reciprocal agencies in other states with and without similar regulations.

(d) The provisions and limitations of this section are mandatory and shall be enforced by the courts of this state.

SECTION 2. Tennessee Code Annotated, Section 4-5-226, is amended by adding a new subsection thereto, as follows:

(n) In conducting the review of agency rules, in addition to the provisions of subsection (e), the committees or subcommittees shall consider if:

(1) The business is unregulated, whether such unregulated practice presents a clear risk to the health, safety, or welfare of the public, and the potential for the harm is supported by evidence and is neither remote nor speculative;

(2) The actual or anticipated public benefits of the rule or regulation clearly exceeds the costs imposed on consumers, businesses, and individuals;

(3) The benefit from the assurance of initial and continuing professional ability serve to avoid a clear risk to the health, safety or welfare of the public; and

(4) The public cannot be protected effectively by other means in a less restrictive manner, including simple registration, private certification, or other non-prohibitive means.

SECTION 3. This act shall take effect July 1, 2008, the public welfare requiring it.